

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DR. JOHN A. REPICCI and LORRAINE REPICCI,
Individually, and JULIE STONE as Trustee of the
JOHN A. REPICCI IRREVOCABLE LIFE INSURANCE
TRUST and THE REPICCI IRREVOCABLE FAMILY
TRUST,

Plaintiffs,

v.

CHRISTOPHER R. JARVIS and OJM Group LLC,

Defendants.

DEFENDANT
CHRISTOPHER R.
JARVIS'S NOTICE OF
MOTION TO DISMISS AND
INCORPORATED
MEMORANDUM OF LAW

Case No.: 1:17-cv-132

Defendant Jarvis, pursuant to Local Rule 7(a)(1) of the United States District Court for the Western District of New York, hereby gives notice of filing the following Motion to Dismiss and Incorporated Memorandum of Law.

1. Defendant Jarvis requests the Court dismiss each cause of action asserted in the Complaint against him, pursuant to Federal Rule of Civil Procedure 12(b)(6).

2. As grounds therefore, Defendant Jarvis asserts each cause of action asserted against him is barred by the applicable statute of limitations. Defendant Jarvis also asserts Plaintiffs fail to make sufficient factual allegations supporting the elements of the causes of action asserted in the Complaint. Defendant Jarvis further asserts the Complaint fails to plead with the specificity required under the Federal Rules of Civil Procedure, and fails to follow general rules of pleading under the Federal Rules of Civil Procedure.

3. The papers submitted in support include Defendant's Motion and Incorporated Memorandum of Law, and the attached Exhibit A, Exhibit B, Exhibit C, and Exhibit D which are

complete copies of the insurance policies allegedly giving rise to each of Plaintiffs' claims, and illustrations associated with the policies.

4. Unless modified by an order of the Court, Plaintiffs' response to Defendant Jarvis's Motion to Dismiss and Incorporated Memorandum of Law is due no later than fourteen days after service of the motion on Plaintiffs. Local Rule 7(b)(2)(B) of the United States District Court for the Western District of New York.

5. Pursuant to Local Rule 7(a)(1) of the United States District Court for the Western District of New York, Defendant Jarvis gives notice of his intent to file and serve reply papers following Plaintiffs' response.

Respectfully submitted,

**WINGET, SPADAFORA &
SCHWARTZBERG, LLP**

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**COUNSEL FOR DEFENDANT
CHRISTOPHER R. JARVIS**

CERTIFICATE OF SERVICE

I certify a copy of the foregoing was filed through the CM/ECF Portal for the United States District Court for the Western District of New York, and it was therefore electronically served on Richard A. Moore (rmoore@dhpqlaw.com) of Duke Holzman Photiadis & Gresens, LLP, 701 Seneca Street, Suite 750, Buffalo New York 14210, and Edward S. Bloomberg (ebloomberg@phillipslytle.com) and Andrew P. Devine (adevine@phillipslytle.com) of Phillips Lytle LLP, One Canalside 125 Main Street, Buffalo, New York 14203-2887 on this 21st day of April, 2017.

s/Matthew Tracy
Matthew Tracy